

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ISRAEL ANTONIO TORRES, §
Plaintiff, §
v. § Case No. 6:23-cv-145-JDK-JDL
KEITH FOUST, et al., §
Defendants. §

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Israel Antonio Torres, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love pursuant to 28 U.S.C. § 636.

On April 10, 2023, Judge Love issued a Report and Recommendation recommending that the Court dismiss this case with prejudice as malicious. Docket No. 14. As the Report explained, Plaintiff raised the same claims that he raises in this lawsuit in a previous lawsuit, case number 6:23-cv-107. Plaintiff objected. Docket No. 12.

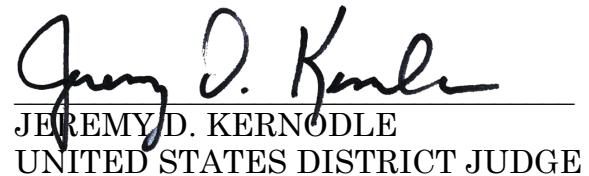
Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United*

Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), superseded on other grounds by statute, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

While Plaintiff raises several issues in his objections, he does not address the conclusion that this lawsuit is malicious based on the previous lawsuit based on the same claims. *Pittman v. Moore*, 980 F.2d 994, 994-95 (5th Cir. 1993); *Sowell v. Estelle Medical Department*, 2022 WL 3229982 (5th Cir. 2022) (affirming dismissal of duplicative case as frivolous).

Having conducted a de novo review of the record in this case and the Magistrate Judge's Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff's objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 14) as the opinion of the District Court. Plaintiff's claims are **DISMISSED** with prejudice. The dismissal of this case shall not prevent Plaintiff from pursuing his claims in case number 6:23-cv-107 and shall have no effect upon the progress of that case.

So **ORDERED** and **SIGNED** this 7th day of **June, 2023**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE